



**AFTAB PUREVAL
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
September 10, 2020 01:59 PM**

**AFTAB PUREVAL
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 983940**

DAVE CONRAD

A 2003168

vs.

**MORGANTOWN FREIGHT
INC**

**FILING TYPE: INITIAL FILING (IN COUNTY) WITH NO JURY
DEMAND**

PAGES FILED: 6

EFR200



Elizabeth L. Acciani - 0089513
Attorney for Plaintiff

**COURT OF COMMON PLEAS
CIVIL DIVISION
HAMILTON COUNTY, OHIO**

DAVE CONRAD
170 Circle Drive
Harrison, OH45030

Plaintiff,

vs.

MORGANTOWN FREIGHT, INC.
Serve: Alison Cardwell
2531 South Main St.
Morgantown, KY 42261

and

DAVID DAUGHERTY
388 Cobie Dewees Rd.
Morgantown, KY 42261

Defendants.

FOR HIS COMPLAINT, Plaintiff states:

OVERVIEW

1. This civil action arises from September 14, 2018, in which a tractor trailer being operated by Defendant David Daugherty, (Defendant Daugherty) was illegally parked on the I-74 Entrance Ramp of New Haven Road in Hamilton County Ohio.

2. There were no signs, flares, lights or any other means employed by Defendant Daugherty to illuminate and/or warn drivers entering eastbound on I-74 that the semi-tractor and trailer were parked on the berm of that exit.
3. In the early morning at approximately 7:00am on September 14, 2018, the parked semi-tractor with trailer attached were not readily visible and noticeable to drivers entering the highway.
4. A crash occurred between the vehicle Plaintiff Dave Conrad was operating and the parked semi-tractor with trailer of Defendant Daugherty, in which Plaintiff Dave Conrad sustained multiple severe injuries.
5. The tractor-trailer was owned by Defendant Morgantown Freight Inc., and operated by Defendant David Daugherty.

PARTIES

6. Plaintiff, Dave Conrad at the time of the collision was a citizen of the State of Ohio, residing in Hamilton County.
7. At all relevant times, Defendant Morgantown Freight, Inc., (“Morgantown”) is/was at the time registered with the Federal Motor Carrier Safety Administration with a USDOT number of 303814 and is a business entity organized and existing in the Commonwealth of Kentucky with its principal place of business in Morgantown, Kentucky and has designated Alison Cardwell at 2531 South Main St. Morgantown, Kentucky 42261 as its agent for the purposes of service of process of this complaint.
8. At all relevant times, Defendant David Daugherty resided and resides at 388 Cobie Deweese Rd, Morgantown, Kentucky 42261.
9. Defendant David Daugherty was an employee and or agent of Defendant Morgantown.

JURISDICTION and VENUE

10. This Court has subject matter jurisdiction, Ohio Rev. Code Ann. § 2305.01 as well as personal jurisdiction over the Defendants.
4. The subject collision occurred in Hamilton County Ohio.
5. Defendant Morgantown, is a Kentucky corporation and authorized to conduct business and in fact, was conducting business, within the State of Ohio at all times relevant to this action.
6. Because the wreck occurred in Hamilton County Ohio, Hamilton County is the proper venue.

FIRST CAUSE OF ACTION
Negligence of Defendant Daugherty

7. On or about September 14, 2018, Plaintiff Dave Conrad was operating a motor vehicle on the eastbound entrance ramp onto I-74 near New Haven Road in Hamilton County, Ohio.
8. On or about September 14, 2018, Defendant Daugherty negligently and illegally parked his over dimensional semi-tractor trailer owned by his employer, Defendant Morgantown, on the eastbound entrance ramp to I-74 neat New Haven Road in Hamilton County, Ohio.
9. On or about September 14, 2018, Defendant Daugherty carelessly and without due regard for the safety of others negligently parked and left his over dimensional semi tractor-trailer in the roadway, without proper lighting, without proper warning, and in the way of the motoring public, and created a hazardous and dangerous condition that caused and contributed to causing a crash to incur between the vehicle the Plaintiff was operating and the Defendant Daughtery's semi- tractor trailer.
10. As a direct and proximate result of Defendant Daugherty's negligence, Plaintiff Dave Conrad has incurred temporary and permanent injuries including: closed displaced fracture of the scapula, a traumatic brain injury, multiple rib fractures, compression fracture of the thoracic vertebrae, a subarachnoid bleed, and injury to his brachial plexus; has endured great pain and suffering of both mind and body and will continue to endure such pain and suffering

in the future; has incurred medical expenses in excess of \$130,000.00 and will continue to incur medical expenses in the future; has incurred lost wages in excess of \$50,000.00 and will continue to incur lost wages in the future; and has suffered damages for the lost enjoyment of life and will suffer damages for the lost enjoyment of life in the future.

SECOND CAUSE OF ACTION

Statutory Violations of Defendant Daugherty

11. All allegations and causes of action above are incorporated into this cause of action by reference.
12. Defendant Daugherty violated state and federal statutes and regulations, including but not limited to 49 C.F.R. §§ 350-399, O.A.C. 4901:2-5-02 through 4901:2-5-08, ORC § 4511.21A.
15. Defendant Daugherty's statutory violations directly and proximately caused Plaintiff's damages and injuries.
16. Defendant Daugherty is negligent *per se* based on these statutory and regulatory violations.

THIRD CAUSE OF ACTION

Vicarious Liability of Defendant Morgantown Freight, Inc.,

17. All allegations and causes of action above are incorporated into this cause of action by reference.
18. At all relevant times, Defendant Daugherty was the employee, agent, servant, or independent contractor for Defendant Morgantown. Accordingly, Defendant Morgantown. is vicariously liable for the acts of Defendant Daugherty described in the causes of action above.
19. Regardless of the employment or agency relationship, Defendant Morgantown is an interstate motor carrier responsible for the acts of the Defendant Daugherty.

FOURTH CAUSE OF ACTION

Strict Liability of Defendant Morgantown Freight, Inc.,

20. All allegations and causes of action above are incorporated into this cause of action by reference.
21. Defendant Morgantown is the registered owner of the USDOT number 303814 displayed on the tractor-trailer involved in this collision and is therefore responsible for the acts of Defendant Daugherty.

FIFTH CAUSE OF ACTION

Negligence of Defendant Morgantown Freight, Inc.,

22. All allegations and causes of action above are incorporated into this cause of action by reference.
23. Defendant Morgantown had a duty to act reasonably in hiring, instructing, training, supervising and retaining its drivers and other employees and agents, including Defendant Daugherty, and to promulgate and enforce policies, procedures, and rules to ensure that its drivers and the vehicles were reasonably safely inspected and operated.
24. Defendant Morgantown had a duty to exercise reasonable care in entrusting its vehicles and equipment to responsible, competent and qualified drivers.
25. Defendant Morgantown failed in the above-mentioned duties and was therefore negligent.
26. Defendant Morgantown's negligence was the direct and proximate cause of Plaintiff's injuries and the damages described in this Complaint.

SIXTH CAUSE OF ACTION

Statutory Violations of Defendant Morgantown Freight, Inc.

27. All allegations and causes of action above are incorporated into this cause of action by reference.
28. Defendant Morgantown violated state and federal statutes and regulations, including but not limited to 49 C.F.R. §§ 350-399 and O.A.C. 4901:2-5-02 through 4901:2-5-08. These regulations were promulgated to protect the safety of a class of people that includes Plaintiff.

29. Defendant Morgantown's statutory violations directly and proximately caused Plaintiff's damages and injuries as set forth above.
30. Defendant Morgantown is negligent *per se* based on these statutory and regulatory violations.

SEVENTH CAUSE OF ACTION

Claim for Punitive Damages against Defendant Morgantown Freight, Inc.

31. All allegations and causes of action above are incorporated into this cause of action by reference.
32. Defendant Morgantown's actions demonstrate a conscious disregard for the rights and safety of the Plaintiff and the rest of the motoring public, acting with reckless indifference to the consequences to others despite being aware of its conduct and knowing there was a great probability of causing substantial harm.
33. Accordingly, Plaintiff demands punitive damages against Defendant Morgantown.

WHEREFORE Plaintiff demands judgment against Defendant Daugherty and Defendant Morgantown Freight, Inc., jointly and severally, in an undetermined amount in excess of \$25,000.00 (Twenty Five-Thousand Dollars), prejudgment interest to be determined by the Court in addition to punitive damages, costs and all other relief that this Honorable Court deems just under the circumstances which Plaintiff may be entitled.

Respectfully Submitted,
O'CONNOR, ACCIANI & LEVY LPA



Elizabeth L. Acciani - 0089513
Attorney for Plaintiff
600 Vine Street, Suite 1600
Cincinnati, Ohio 45202
Phone: 513-241-7111
Fax: 513-241-7197
Email: ela@oal-law.com